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Attorneys for Defendant, THE KROGER CO.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTINE WHALEN, *et al.*,

Plaintiffs,

v.

THE KROGER CO., ALBERTSONS
COMPANIES, INC., and CERBERUS
CAPITAL MANAGEMENT, L.P.,

Defendants.

Case No.: 3:23-cv-00459-VC

**STIPULATION FOR EXTENSION OF
TIME TO RESPOND TO COMPLAINT
PURSUANT TO LOCAL RULE 6-1**

STIPULATION FOR EXTENSION OF TIME TO RESPOND TO COMPLAINT

Pursuant to Local Rule 6-1(a), the Plaintiffs and Defendants The Kroger Co. (“Kroger”) and Albertsons Companies, Inc. (“Albertsons”) (collectively, the “Parties”) hereby stipulate that the deadline for Albertsons and Kroger to respond to Plaintiffs’ Complaint shall be extended 45 days, from March 1, 2023 to April 17, 2023. In support of the stipulation, the Parties state as follows:

1. On February 2, 2023, Plaintiffs Christine Whalen, Gabriel Garavanian, Sondra K. Russell, Pamela Faust, Lisa McCarthy, Katherine R. Arcell, June Stansbury, Timothy Niebor, Clyde D. Stensrud, Len Marazzo, Yvonne Jocelyn Gardner, Pamela S. Ward, Brenda K. Davis, Jose M. Brito, Don Freeland, Harry Garavanian, Bill Rubinsohn, Valarie Ann Jolly, Michael C. Malaney, Carolyn Fjord, Jan-Marie Brown, Gary Talewsky, Deborah M. Pulfer, Donna Fry, and Rosemary D’Augusta (together “Plaintiffs”) filed a complaint (the “Complaint”) against Kroger, Albertsons, and Cerberus Capital Management, L.P. (“Cerberus”) in Case No. 3:23-cv-459. The two-count antitrust Complaint is based on a proposed merger between Albertsons and Kroger, and a dividend that Albertsons recently issued to its shareholders, including Cerberus. Compl. ¶ 1.

2. Under Fed. R. Civ. P. 12(a)(1), Albertsons’ and Kroger’s responses to the Complaint are currently due March 1, 2023. It appears the third defendant, Cerberus, has not yet been served. There are no other deadlines that have been fixed by the Court.

3. The Parties stipulate to this extension to allow adequate opportunity to meet and confer about this case, including concerning its intersection with other proceedings involving the merger agreement between Kroger and Albertsons. Because this case is still in its early stages, one defendant has not yet been served, and there have been no substantive filings in this court, granting this stipulation will not prejudice any party.

4. Accordingly, pursuant to Civil Local Rule 6-1(a), the Parties hereby stipulate that the deadline for Albertsons and Kroger to respond to the Complaint shall be extended by 45 days.

5. Pursuant to this stipulation, Albertsons’ and Kroger’s responses to the Complaint shall be due on April 17, 2023.

1 Dated: February 23, 2023

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SIGNATURE ATTESTATION

I, Daniel B. Asimow, am the ECF user whose ID and password are being utilized to electronically file this **STIPULATION FOR EXTENSION OF TIME TO RESPOND TO COMPLAINT PURSUANT TO LOCAL RULE 6-1**. Pursuant to Local Rule 5-1(i)(3), I hereby attest that the other signatories have concurred in this filing.

DATED: February 23, 2023.

/s/ Daniel B. Asimow
DANIEL B. ASIMOW